

## UNITED STATE EPARTMENT OF COMMERCE Patent and Tracemark Office

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APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | 08/630.383 | 04/10/96 | POULETTY | P | A-55320-2781

HM21/0518

FLEHR HOHBACH TEST ALBRITTON AND HERBERT SUITE 3400 FOUR EMBARCADERO CENTER SAN FRANCISCO CA 94111-4187 EXAMINER SCHWADRON, R

ART UNIT PAPER NUMBER

DATE MAILED:

05/18/98

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks** 



Defective Notice of Appeal or Brief

## Application No. 08/630,383



Pouletty et al.

Examiner

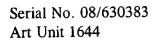
Ron Schwadron, Ph.D.

Group Art Unit 1644



	The	e Notice of Appeal filed on is:
		not acceptable because:
		it was not timely filed.
		the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
		the appeal fee received on was not timely filed.
		the submitted fee of \$ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$
		the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
		a Notice of Allowability, form PTO-37, was mailed by the Office on
	Th	te appeal brief filed on is NOT acceptable for the reason(s) indicated below:  The brief and/or brief fee is untimely. See 37 CFR 1.192.
		The statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
		The submitted brief fee of \$ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$
		he appeal in this application will be dismissed unless corrective action is taken. Extensions of time may be obtained nder 37 CFR 1.136(a).
X	Th	ne appeal in this application is DISMISSED because:
	X	The fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
	X	The brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
X	Ве	ecause of the dismissal of the appeal, this application:
	X	is abandoned because there are no allowed claims.
		is being returned to the examiner for final disposition because it contains allowed claims. Prosecution on the merits is CLOSED.
		Please see enclosed  Note required submission filed  RONALD B. SCHWADRON  PRIMARY EXAMINER  GROUP 1800-1600







1. Regarding the amendment filed 3/5/98 under 37 C.F.R. section 1.129, the instant application does not qualify to file under 37 C.F.R. section 1.129 because it was filed after 6/8/95.

37 C.F.R.§ 1.129 states in section (c) that:

"(c) The provisions of this section shall not be applicable to any application filed after June 8, 1995.".

Also see M.P.E.P. section 706.07(g), Rev. 3, July 1997, pages 700-47 to 700-52, especially 700-49.

Therefore, applicant has not filed an appropriate response with regards to the Notice of appeal filed 10/7/97 as per noted in the enclosed Defective Notice of Appeal or Brief.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Tuesday through Friday from 8:30 to 6:00. The examiner can also be reached on alternative Mondays. A message may be left on the examiners voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 180 receptionist whose telephone number is (703) 308-0196.

PRIMARY EXAMINEF GROUP 1800

Ron Schwadron, Ph.D.

Primary Examiner

Art Unit 1644

May 15, 1998